

## REMARKS

### 35 U.S.C. §102

MPEP 2131 quotes Verdegaal Brothers v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987) for the legal standard of anticipation: “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (emphasis added).

#### Claims 1-10

The rejection of claim 1 is respectfully traversed.

Claim 1 claims, among other elements, a system for performing anastomosis comprising an “inner element including a unitary body...wherein at least a portion of said unitary body is deformable from a first configuration to a second configuration and deformable back to said first configuration from said second configuration.” (emphasis added).

In contrast, U.S. Patent No. 5,695,504 to Gifford et. al. (“Gifford”) neither explicitly nor implicitly describes each and every element of claim 1. The Office Action identifies Figures 24a-24d and 25a-25d, which disclose two-piece anastomosis devices, as anticipating the limitations of claim 1. However, the inner flange 284 of Gifford is nowhere described as being deformable from a first configuration to a second configuration and then back to the first configuration. Initially, the inner flange 284 of Gifford is “unexpanded”. (e.g., col. 31, lines 51-52). The text cited in the Office Action states that “[o]nce the inner flange 284’ of the fitting 283 is in the lumen 256 of the target vessel 255, it is expanded to a diameter 284 which is significantly larger than the opening 267 in the target vessel wall 255.” (col. 31, lines 55-57). That is, Gifford describes an inner flange that is deformable from a first

configuration to a second configuration. However, Gifford fails to disclose deformability of that inner flange 284 from the second configuration back to the first configuration.

Thus, Gifford neither expressly nor inherently describes each and every element claimed in claim 1, and Applicants believe claim 1 is in condition for allowance. Claims 2-10 depend directly or indirectly from claim 1, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

With regard to the rejection of claim 7 under 35 U.S.C. §103, because claim 1 is believed to be in condition for allowance, and claim 7 depends from claim 1, such that claim 7 would be in condition for allowance under MPEP 608.01(n)(III).

#### Claims 11-18

The rejection of claim 11 is respectfully traversed.

Claim 11 claims, among other elements, a system for performing anastomosis comprising an “elastically deformable inner element connectable to the graft vessel, said inner element deflectable from a first configuration to a second configuration and expandable from said second configuration to said first configuration.”

In contrast, Gifford neither explicitly nor implicitly describes each and every element of amended claim 11. The discussion above with respect to claim 1 applies equally here. Thus, Gifford neither expressly nor inherently describes each and every element claimed in claim 11, and Applicants believe claim 11 is in condition for allowance. Claims 12-18 depend directly or indirectly from claim 11, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

#### Claims 19-25

The rejection of claim 19 is respectfully traversed.

Claim 19 claims, among other elements, a method for performing anastomosis comprising “deforming at least a portion of said unitary body from an initial configuration to a compressed configuration; inserting at least part of said unitary body into the opening; expanding at least a portion of said unitary body from said compressed configuration to said initial configuration.”

The same discussion applies here as with regard to claim 1. Thus, Gifford neither discloses nor suggests each and every element claimed in claim 19, and Applicants believe claim 19 is in condition for allowance. Claims 20-25 depend directly or indirectly from claim 19, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

#### **REQUEST FOR ALLOWANCE**

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,



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